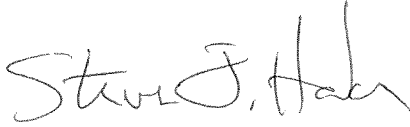


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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) 03-0914	
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on <u>May 22, 2009</u> Signature <u>/Elizabeth Schumacher/</u> Typed or printed name <u>Elizabeth Schumacher</u>		Application Number 10/664,636 First Named Inventor Rebecca A. Kocot Art Unit 2193	Filed September 19, 2003 Examiner Insun Kang
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <div style="display: flex; justify-content: space-between; align-items: flex-start; margin-top: 20px;"><div style="width: 45%;"><p>I am the</p><p><input type="checkbox"/> applicant/inventor.</p><p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p><p><input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>58076</u></p><p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</p></div><div style="width: 50%; text-align: center;"> _____ Signature Steven J. Hanke _____ Typed or printed name <u>972-480-8800</u> _____ Telephone number <u>May 22, 2009</u> _____ Date</div></div> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p>			
<p><input checked="" type="checkbox"/> *Total of <u>1</u> forms are submitted.</p>			

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Rebecca A. Kocot

Serial No.: 10/664,636

Filed: September 19, 2003

Title: USER INTERFACE SOFTWARE DEVELOPMENT TOOL AND
METHOD FOR ENHANCING THE SEQUENCING OF INSTRUCTIONS
WITHIN A SUPERSCALAR MICROPROCESSOR PIPELINE BY
DISPLAYING AND MANIPULATING INSTRUCTIONS IN THE
PIPELINE

Grp./A.U.: 2193

Examiner: Insun Kang

Confirmation No.: 5055

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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May 22, 2009 (Date)

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/Elizabeth Schumacher/
(Signature of the person signing the certificate)

Sir:

PRE-APPEAL BRIEF REQUEST FOR REVIEW

The Appellant has carefully considered this application in connection with the final Examiner's Action mailed January 22, 2009, and the Advisory Action mailed April 6, 2009, and respectfully requests a pre-appeal brief review of this application in view of the following remarks.

REMARKS/ARGUMENTS

The Appellant originally submitted Claims 1-20 in the application. In a previous response, Claim 2 was canceled without prejudice or disclaimer. Accordingly, Claims 1 and 3-20 are currently pending in the application.

I. Rejection of Claims 1 and 4-7 under 35 U.S.C. §103

The Examiner has rejected Claims 1 and 4-7 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Application Publication No. 2003/0110476 by Aihara (hereinafter "Aihara") in view of an article entitled, "Visualizing Application Behavior on Superscalar Processors," IEEE, 10/1999 by Stolte, *et al.* (hereinafter "Stolte"). The Appellant respectfully disagrees since the cited portions of the combination of Aihara with Stolte, as applied by the Examiner, do not teach or suggest a graphical user interface (GUI) for receiving user input to select one instruction address as recited in independent Claim 1.

As the Examiner points out, the invention as presently claimed and both Aihara and Stolte are directed to visualization of a DSP/superscalar pipeline information. (*See* second paragraph of comments on page 2 of the Advisory Action of April 6, 2009.) However, the Applicant believes that neither Aihara nor Stolte teach that a user can select a single instruction from which to visualize pipeline information. The Examiner recognizes that Aihara does not teach or suggest that a user can select a single instruction and cites the first paragraph in the left column on page 5 of Stolte to cure this deficiency. (*See* Final Rejection of January 22, 2009, page 2, and the last paragraph on page 2 of the Advisory Action of April 6, 2009.) Stolte teaches, in Fig. 2, a pipeline view is generated that

shows all instructions in a pipeline. As the Examiner points out, Stolte teaches that a user controls a pipeline animation using controls similar to those on a VCR enabling a user to single-step through the pipeline. However, Stolte does not teach or suggest that the user can select a single instruction out of all the instructions in the view. On the contrary, the user must animate and step through each instruction, one instruction at a time, to arrive at a selected instruction. This could take several steps to arrive at the single instruction that the user wants to view. The invention as presently claimed teaches that the user can go directly to the instruction desired in one step by highlighting the instruction.

As a result, the cited portions of the cited combination of Aihara and Stolte, as applied by the Examiner does render independent Claim 1 and Claims that depend thereon unpatentable. Accordingly, the Appellant respectfully request the Review Panel to remove the §103(a) rejection of Claims 1 and 4-7 and allow issuance thereof.

II. Rejection of Claims 8-10 and 12-15 under 35 U.S.C. §103

The Examiner has rejected Claims 8-10 and 12-15 under 35 U.S.C. §103(a) as being unpatentable over Aihara in view of U.S. Patent No. 5,913,052 to Beatty, *et al.* (hereinafter "Beatty"), and further in view Stolte. As established above, the combination of Aihara and Stolte does not provide a *prima facie* case of obviousness for independent Claim 1. Analogously, the cited combination of Aihara and Stolte does not provide a *prima facie* case of obviousness for independent Claim 8 since Claim 8 also includes the limitations of a GUI that allows a user to select a particular instruction address. As such, the cited combination of Aihara, Beatty, and Stolte does not provide a

prima facie case of obviousness for independent Claim 8 and Claims that depend thereon. Accordingly, the Appellant respectfully requests the Review Panel to remove the §103(a) rejection of Claims 8-10 and 12-15 and allow issuance thereof.

III. Rejection of Claims 16-20 under 35 U.S.C. §103

The Examiner has rejected Claims 16-20 under 35 U.S.C. §103(a) as being unpatentable over Aihara in view of Beatty. As established above, the cited combination of Aihara and Beatty does not provide a *prima facie* case of obviousness for independent Claim 8. Analogously, for the same reasons, the cited combination does not provide a *prima facie* case of obviousness for independent Claim 16 and Claims that depend thereon. Accordingly, the Appellant respectfully requests the Review Panel to remove the §103 rejection of Claims 16-20 and allow issuance thereof.

IV. Rejection of Claims 3 and 11 under 35 U.S.C. §103

The Examiner has rejected Claims 3 and 11 under 35 U.S.C. §103(a) as being unpatentable over Aihara in view of Stolte, and further in view of: U.S. Patent Application Publication No. 2002/0130871 by Hill, *et al.* (hereinafter "Hill") for Claim 3; and Hill and Beatty for Claim 11. As established above, the cited combination of Aihara and Stolte does not provide a *prima facie* case of obviousness for independent Claims 1 and 8. Neither Hill nor Beatty has been cited to cure the above-noted deficiencies of the cited combination of Aihara and Stolte but to teach the subject matter of the above mentioned dependent Claims. As such, the cited combination of Aihara and Stolte and either Hill or Hill and Beatty does not provide a *prima facie* case of obviousness of independent

Claims 1 and 8 and Claims that depend thereon. Accordingly, the Appellant respectfully requests the Review Panel to remove the §103(a) rejection of Claims 3 and 11 and allow issuance thereof.

VI. Conclusion

In view of the foregoing remarks, the Appellant now sees all of the Claims currently pending in this application to be in condition for allowance and therefore earnestly solicits a Notice of Allowance for Claims 1 and 3-20.

The Appellant requests the Reviewers to telephone the undersigned agent of record at (972) 480-8800 if such would further or expedite the prosecution of the present application. The Commissioner is hereby authorized to charge any fees, credits or overpayments to Deposit Account 08-2395.

Respectfully submitted,

HITT GAINES, PC

A handwritten signature in black ink, appearing to read "Steven J. Hanke", written in a cursive style.

Steven J. Hanke
Registration No. 58,076

Dated: May 22, 2009

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